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Before the  
FEDERAL COMMUNICATIONS COMMISSION

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I. STATEMENT OF TELOCATOR'S INTEREST

Telocator is the national trade association for the personal communications services industry. Its members include common carrier and private paging companies, cellular telephone companies, and providers of other radio-based communications services. Telocator is filing these comments consistent with its policy of supporting regulatory initiatives that promote improvements for the paging industry.

In today's highly competitive paging marketplace, functionally similar RCCs and PCPs operate under markedly different legal and regulatory ground rules. RCCs are licensed under Part 22 of the Commission's rules and are subject to federal and state regulations<sup>2</sup> while PCPs are licensed under Part 90 of the Commission's rules, free from comparable federal or state regulations.<sup>3</sup> RCCs have exclusive spectrum rights and unrestricted rights to market to the public while PCPs currently do not.

Telocator submits that these regulatory disparities fly in the face of marketplace reality, arbitrarily segmenting and classifying functionally equivalent services. In their place, Telocator envisions an integrated set of regulations

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<sup>2</sup> 47 C.F.R. §22.0 et al.

<sup>3</sup> 47 C.F.R. §90.1 et al.

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The Notice proposes to allot thirty-five of the forty PCP channels in the 929-930 MHz band for channel exclusivity, while the remaining five channels would continue to be available for shared use.<sup>4</sup> PCP systems consisting of six or

Under the proposed rules, the United States would be divided into seven regions similar to the RBOC regions. Regional systems would operate with such service areas while nationwide licensees would be required to serve at least two markets in each of these regions.<sup>6</sup> Applicants seeking to build a system of more than thirty transmitters would be granted up to three years to construct, based on a showing of reasonable need for the extension, a detailed construction timetable, and evidence of financial ability to construct the system.<sup>7</sup>

With respect to technical standards, the Notice proposes to require each transmitter to have 100 watts minimum output power and simulcast capability. In addition, all transmitters would have to function together as part of a single operating system.<sup>8</sup>

Exclusive channel applicants would be limited to requesting one frequency at a time to any location. Furthermore, no applicant would be assigned a second frequency in a given area unless and until it had completed construction and commenced operation of a qualified system in that area on the initial frequency.<sup>9</sup>

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<sup>6</sup> Notice at ¶ 26.

<sup>7</sup> Notice at ¶ 31.

<sup>8</sup> Notice at ¶ 32.

<sup>9</sup> Notice at ¶ 34.

The Notice proposes to extend exclusive channel rights to all systems that qualify for such protection at the time the rules are adopted. At the same time, existing systems that do not qualify for exclusivity would be grandfathered. However, the Commission has tentatively explained that any preference given to expansion of existing systems must be limited in nature so as not to "override the protection afforded to other licensees."<sup>10</sup> Finally, the Notice proposes to allow PCP applicants to use one of three frequency coordinators (NABER, ITA, or APCO) to obtain coordination.

**III. THE COMMISSION'S PROPOSAL TO ALLOW EXCLUSIVE  
USE OF THE 900 MHZ PCP CHANNELS WILL SERVE  
THE PUBLIC INTEREST**

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Telocator agrees that channel exclusivity for 900 MHz PCP systems is desirable.<sup>11</sup> In recent years, the nation's paging industry has experienced phenomenal growth. While the American consumers' demand for personalized paging services has been growing geometrically, however, spectrum has remained scarce. As a result, paging channels have become crowded by an increasing number of competing service providers, threatening paging's continued progress.

The Commission will, therefore, facilitate improved and expanded service to the public by granting qualified

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<sup>10</sup> Id. at ¶ 35-37.

<sup>11</sup> Notice at ¶ 16.

licensees the exclusive rights to a channel. "Exclusivity will also create a more stable, predictable environment for licensees by eliminating the risk that other users will be assigned the same channel in their service area. Thus, licensees will have greater incentive to invest in technology and to develop higher-capacity paging systems."<sup>12</sup>

Absent exclusivity, PCP frequency sharing may lead to congestion that delays message transmission as air time must be allotted among multiple users. More importantly, frequency sharing may discourage the development of wide-area paging systems that rely on high-speed technologies. Such a result would be unfortunate and unnecessary.

As Telocator demonstrated in its Advanced Messaging Service Petition for Rulemaking,<sup>13</sup> the potential applications for wide-area paging operations are tremendous, producing increased efficiencies for American businesses and meeting important consumer needs. In particular, regional and national systems are warranted. Accordingly, the establishment of channel exclusivity for 900 MHz PCP systems would affirmatively serve the public interest.

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<sup>12</sup> Id.

<sup>13</sup> Telocator Petition For Rulemaking to Amend Part 22 of the Commission's Rules Concerning the Use of 930-931 MHz for an Advanced Messaging Service, RM-7617 (Jan. 23, 1991). See Public Notice Rpt. No. 1836 (Feb. 7, 1991).

**IV. THE COMMISSION SHOULD BUILD UPON ITS MOBILE  
SERVICE REFORMS BY INITIATING A FURTHER PROCEEDING  
TO RELIEVE RCCS OF UNNECESSARY REGULATORY BURDENS**

As discussed above, it is Telocator's hope that the playing field will be leveled for all paging providers, regardless of their regulatory classification. A fundamental position of the association is that like services, competing in the marketplace for the same customers, should be subject to the same regulatory conditions.<sup>14</sup>

Independent of this proceeding then, Telocator urges the Commission to expand its efforts to reduce the disparate regulatory burdens borne by RCCs and PCPs. As the Commission has long recognized, significant public interest benefits flow from maximizing service to consumers from all potential providers and from expanding the telecommunications options available throughout the marketplace. By allowing functionally similar services to compete on equal regulatory footing, the Commission will promote a pro-competitive paging marketplace.

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<sup>14</sup> Regulatory incongruities between common carrier and private carrier paging operations include applicability of state regulation, applicability of Federal regulation (under Title II), ownership limitations, differences in filing fees and forfeiture baselines, and interconnection rights.

V. CONCLUSION

Consistent with its vision of the future regulation of the paging industry and its goal of "averaging up" to the best operating conditions for all paging entities, Telocator supports the Commission's proposal to establish channel exclusivity for 900 MHz PCP systems. In such respects, the association also requests the Commission to initiate appropriate proceedings to eliminate the remaining regulatory incongruities between competing RCCs and PCPs providing functionally similar services.

Respectfully submitted,

TELOCATOR, THE PERSONAL COMMUNICATIONS  
INDUSTRY ASSOCIATION

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